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Virginia State Dairymen's Association Comments on Draft Chesapeake Bay TMDL

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Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

RE: EPA-R03-OW-2010-0736 (Draft Chesapeake Bay TMDL)

The Virginia State Dairymen's Association (VSDA) appreciates the opportunity to comment on the draft Chesapeake Bay TMDL published in the Federal Register by the U.S. Environmental Protection Agency (EPA) on September 22, 2010.

VSDA is a nonprofit trade association, founded in 1907, that represents dairy farmers from around the Commonwealth. The dairy industry employs thousands of citizens and has an economic impact of over \$1.115 billion. VSDA has also long recognized the need for a healthy Chesapeake Bay. Well managed agricultural land is one of the most beneficial land uses for water quality.

VSDA has been proactive in working towards cost effective and feasible measures to improve water quality. We have long track record of promoting voluntary measures and using existing state regulations to achieve a mutually beneficial goal. We have been involved with the following organizations and efforts:

- Founding member of the Virginia Waste Solutions Forum, this group brings together agricultural and environmental groups along with state agencies and universities that have worked together since 2006 to find economically feasible solutions for excess animal manure.
- VSDA passed a resolution in 2008 promoting voluntary livestock exclusion for dairy animals throughout Virginia.
- VSDA is contributing member to the Shenandoah Valley Pure Water Forum; this is another diverse organization that works to promote improved water quality through joint ventures.
- VSDA has also collaborated with numerous stake holders to work towards increasing funding for Virginia's best Management Practices (BMP)

One of the areas of concern for VSDA was the greatly shortened public comment period that EPA provided. 45 days is far too short of a time for the public to digest the several hundred page document that will have far reaching effects on several aspects of their lives. We are concerned that this shortened timeline still stifle public input. We are also concerned with the exclusion of comment on the model and its components. Even though EPA has acknowledged that there are flaws in the model and the land use tools that are fed into the model, there has not been an opportunity for the public to review either systems or comment on its effectiveness. One of the largest issues that VSDA has with the current model is that there is no system in place to account for all of the voluntary practices farmers are implementing with no financial assistance. Agriculture is being unfairly punished with larger allocations due to the fact that many producers are not getting credit for BMP's they have implemented at their own cost. We are also concerned with the agricultural census numbers that this TMDL is being based on. The dairy industry in Virginia has gone through heavy contraction over the past decade and the concern is that the numbers that are being used are incorrect and will place larger allocations on a smaller pool of operations.

VSDA is also concerned with the heavy handed, one size fits all approach that EPA seems to favor in regards to agriculture. We have advocated that there needs to be whole farm plans that look at farms individually and work toward plans that take each farms situation and condition into account. The concern is that burdensome regulations and the arbitrary plan to implement a set group of BMP's will force farms out of production. We need a flexible approach that works with the farms and accounts for economic conditions and area specific challenges. Virginia estimates that just one practice (cattle fencing) could cost more than \$800 million to implement. Fencing cattle from streams, putting in crossings, providing alternative watering, etc. costs on average \$30,000 for a Virginia cattle farmer.

Agriculture has met 52% of reduction goals for Nitrogen and 50% for Phosphorus and Sediment, all through a voluntary, incentive based program in Virginia. This doesn't even count the actions farmers are taking on their own without funding. Virginia has had an effective BMP plan that has put over \$80 million into Agricultural BMP cost share programs since 2006. Virginia farmers have put up \$.60 for every dollar that the state has invested. Unfortunately there is still a line of producers with projects who are turned away due to inadequate funding of the cost share programs. These programs also do not consider the upkeep and the loss of productive land. It is unfair to punish farmers who have met over half of goals through a voluntary program that is not fully funded. If the program was fully funded we would be near our goals. It seems that it would be better to fund this voluntary program and then see what the results would be instead of throwing the program to the side and implementing burdensome regulations.

VSDA is also alarmed at the inclusion of federal backstops in the proposed TMDL plan. This targets and punishes larger operations for no other reason than they are under EPA jurisdiction. A more reasonable approach is to work with Virginia's current incentive based system to help operations of all sizes work towards a common goal. CAFO's in Virginia already work under stringent federal and state guidelines and further regulations will only add more costs to the operation. Instead of overreaching their authority, we also urge EPA to work with Virginia on

programs such as the Virginia Pollution Abatement program that are often more stringent than federal CAFO permits and are highly effective. Moving more operations under federal permits would create unnecessary paperwork and have little impact on water quality.

Virginia has charted a positive course through the use of incentive based and flexible BMP's that have had a positive impact on the national treasure that is the Chesapeake Bay. We urge EPA to reconsider its current approach and work with Virginia to fully fund these cost share and technical assistance programs. This common sense approach will allow agriculture to remain environmental stewards while also remaining an important industry in Virginia. The TMDL approach is too far removed from local land use planning and decision making to be flexible and feasible. If EPA will work with Virginia under current guidelines and programs, we can achieve our shared goal while still supporting farmers around the state. Thank you for the opportunity to comment and please feel free to contact me with any questions or comments you may have.